

AN ACT

relating to the extension of credit to a victim of and to insurance coverage for identity theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.585 to read as follows:

Sec. 35.585. EXTENSION OF CREDIT TO VICTIM OF IDENTITY THEFT. (a) In this section, "victim of identity theft" means an individual who has filed a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, other than a person who is convicted of an offense under Section 37.08, Penal Code, with respect to that complaint. A person who has been notified that an individual who has the capacity to contract has been the victim of identity theft may not deny the individual an extension of credit, including a loan, in the individual's name or restrict or limit the credit extended solely because the individual has been a victim of identity theft. This subsection does not prohibit a person from denying an individual an extension of credit for a reason other than because the individual has been a victim of identity theft.

(b) A license issued under Subtitle B, Title 4, Finance Code, that is held by a person who violates this section is subject to revocation or suspension under that subtitle.

SECTION 2. The heading to Subtitle F, Title 5, Insurance

Code, is amended to read as follows:

SUBTITLE F. INSURANCE FRAUD AND IDENTITY THEFT

SECTION 3. Subtitle F, Title 5, Insurance Code, is amended by adding Chapter 706 to read as follows:

CHAPTER 706. IDENTITY THEFT INSURANCE

Sec. 706.001. DEFINITIONS. (a) The definitions adopted under Article 5.13-2 apply to this chapter.

(b) In this chapter, "identity theft" means a criminal offense described by Section 32.51, Penal Code, or a substantially similar federal law or law in another state.

Sec. 706.002. COVERAGE AUTHORIZED. (a) An insurer authorized to write property and casualty insurance in this state may offer and issue insurance coverage for a loss suffered by a policyholder as a result of the policyholders' being a victim of identity theft or attempted identity theft.

(b) Coverage authorized by Subsection (a) may be:

(1) offered as a separate insurance policy or as a rider or endorsement to:

(A) a residential and commercial property insurance policy; or

(B) a personal or commercial casualty insurance policy; and

(2) underwritten and issued as an individual or group insurance policy.

Sec. 706.003. ELIGIBLE POLICYHOLDERS. (a) An insurer may issue coverage authorized under Section 706.002 to:

(1) an individual; or

1 (2) a group, business, employer, association,
2 trustee, or other entity for the benefit of its members, customers,
3 employees, members, or beneficiaries.

4 (b) An entity described by Subsection (a)(2) may be a group
5 that:

6 (1) is formed solely for the purpose of obtaining
7 insurance coverage under this chapter; or

8 (2) has already been formed for a purpose other than
9 for obtaining insurance coverage under this chapter and that is
10 described by Subsection (a)(2).

11 Sec. 706.004. RATES AND FORMS. Notwithstanding any other
12 law, rates and forms for insurance coverage issued under this
13 chapter are governed by Article 5.13-2.

14 Sec. 706.005. RULES. The commissioner may adopt rules as
15 necessary to implement this chapter.

16 SECTION 4. Subsection (a), Section 2, Article 5.13-2,
17 Insurance Code, is amended to read as follows:

18 (a) This article applies to all lines of the following
19 insurance written under policies or contracts of insurance issued
20 by an insurer authorized to engage in the business of insurance in
21 this state:

22 (1) general liability insurance;

23 (2) residential and commercial property insurance,
24 including farm and ranch insurance and farm and ranch owners
25 insurance;

26 (3) personal and commercial casualty insurance,
27 except as provided by Subsection (b) of this section;

- 1 (4) medical professional liability insurance;
- 2 (5) fidelity and surety bonds other than criminal
- 3 court appearance bonds;
- 4 (6) personal umbrella insurance;
- 5 (7) personal liability insurance;
- 6 (8) guaranteed auto protection (GAP) insurance;
- 7 (9) involuntary unemployment insurance;
- 8 (10) financial guaranty insurance;
- 9 (11) inland marine insurance;
- 10 (12) rain insurance;
- 11 (13) hail insurance on farm crops; ~~and~~
- 12 (14) personal and commercial automobile insurance;i
- 13 and
- 14 (15) identity theft insurance coverage issued under
- 15 Chapter 706.

16 SECTION 5. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 99 passed the Senate on April 26, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 12, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 99 passed the House, with amendments, on May 9, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor